

CITY OF LEWISTON

CITY COUNCIL

JULY 17, 2007

REGULAR MEETING HELD IN THE COUNCIL ROOM AT 7:00 P.M.

THE HONORABLE LAURENT F. GILBERT, SR., MAYOR, PRESIDING.

PRESENT: Councilors Mendros, Bernier, O'Brien, Jean, Samson, Paradis, City Administrator James Bennett, and City Clerk Kathleen Montejo. Absent/Excused: Councilor Rousseau

Pledge of Allegiance to the Flag.

Moment of Silence.

RECOGNITION OF COMMUNITY LEADERSHIP AWARD RECIPIENT MAGGIE CHISHOLM, DIRECTOR OF RECREATION AND PARKS

Mayor Gilbert recognized Maggie Chisholm, Director of Recreation and Parks, for her recent honor as recipient of the Community Leadership Award presented by the Weed & Seed program. Ms. Chisholm complemented and thanked the committee members, the Recreation staff and her family.

COMMITTEE APPOINTMENTS - LEWISTON YOUTH ADVISORY COUNCIL

Mayor Gilbert appointed the following students to serve on the 2007-2008 LYAC: Athena Andoniades, Devin Bergeron, Sara Fabrizio, Jenni Golletti, Ray Goulet, Filsan Hirsi, Veronica Irish, Luke Jenson, Travis Laliberte, Holly Lavorgna, Jeffrey Lewandowski, Ashley Morgan, Hossain Naji, Clarissa Smith and Tim Stretton. Each came forward to receive a certificate of appointment and a LYAC t-shirt.

VOTE (202-2007)

Motion by Councilor O'Brien, seconded by Councilor Jean:

To dispense with the reading of the minutes of the June 19, 2007, meeting and to accept and place them on file as prepared by the City Clerk. Passed - Vote 6-0

AUTHORIZATION TO ACCEPT TRANSFER OF FORFEITURE FUNDS

VOTE (203-2007)

Motion by Councilor Jean, seconded by Councilor Paradis:

That pursuant to Title 15, Maine Revised Statutes Annotated, Section 5824(3) and Section 5822(4)(A), the City Council hereby acknowledges and approves of the transfer of \$678.00, or any portion thereof, in the case of the State of Maine vs. Justin Jackson, CR-07-548 Court

Records. Being funds forfeited pursuant to court process. It is further acknowledged that these funds shall be credited to the 'City of Lewiston Drug Enforcement Program', funds to be deposited in Account No. 590-3514050 at People's Heritage Bank. Passed - Vote 6-0

**AMENDMENT TO THE TRAFFIC SCHEDULE REGARDING REGULATION OF
PARKING TIMES FOR THE CEDAR AND LINCOLN STREETS MUNICIPAL
PARKING LOT**

VOTE (204-2007)

Motion by Councilor Jean, seconded by Councilor Paradis:

To adopt the proposed amendment to the Traffic Schedule regarding the regulation of parking times for the Cedar and Lincoln Streets municipal parking lot:

Section 7 - Parking Meters - Time Limitations - 1 Hour

~~LINCOLN STREET~~

~~18 parking spaces on the westerly side of the
Parking Lot, situated on the northeast corner of
Lincoln Street and Cedar Street, where it abuts with
the sidewalk on the even numbered side, east side,
on Lincoln Street.~~

Section 8 - Parking Meters - Time Limitations - 2 Hour

CEDAR & LINCOLN STREET LOT

15 parking spaces on the westerly side of the
Parking Lot, situated on the northeast corner of
Lincoln Street and Cedar Street, where it abuts with
the sidewalk on the even numbered side, east side,
on Lincoln Street.

Passed - Vote 6-0

**AMENDMENTS TO THE PARKING FEES POLICY REGARDING PARKING TIMES
FOR THE CEDAR AND LINCOLN STREETS MUNICIPAL PARKING LOT**

VOTE (205-2007)

Motion by Councilor Jean, seconded by Councilor Paradis:

To approve the proposed amendment to the Parking Fees Policy, Policy Manual Number 42, as recommended by the Chief of Police. Passed - Vote 6-0

**AUTHORIZATION FOR ACCEPTANCE OF GRANT FUNDS FROM THE MAINE
FOREST SERVICE PROJECT CANOPY PROGRAM**

VOTE (206-2007)

Motion by Councilor Jean, seconded by Councilor Paradis:

To accept the grant award from the Maine Forest Service Project Canopy Program, and to authorize the City Administrator and the Finance Director to administer said funds accordingly.
Passed - Vote 6-0

**APPROVAL FOR THE FESTIVAL FRANCO FUN COMMITTEE TO PLACE
TEMPORARY DIRECTIONAL SIGNS IN THE PUBLIC RIGHT-OF-WAY**

VOTE (207-2007)

Motion by Councilor Jean, seconded by Councilor Paradis:

To authorize the Festival Franco Fun Committee to place one temporary, directional sign at Hewlett Square from July 18 to August 5 to promote the upcoming festival. Passed - Vote 6-0

APPOINTMENT TO THE 911 COMMITTEE

VOTE (208-2007)

Motion by Councilor Jean, seconded by Councilor Paradis:

To confirm the Mayor's nomination of Deputy Finance Director/City Auditor Heather Hunter and to appoint Ms. Hunter as a member of the 911 Committee for a two year term, said term to expire January 2009. Passed - Vote 6-0

**PUBLIC HEARING AND FIRST PASSAGE ON AMENDMENTS TO THE CITY CODE
FOR VEHICLES FOR HIRE**

Mayor Gilbert opened the public hearing to receive citizen input and comment. No members of the public spoke for or against this item. Mayor Gilbert then closed the hearing.

VOTE (209-2007)

Motion by Councilor O'Brien, seconded by Councilor Jean:

That the proposed amendments to the City Code of Ordinances, Chapter 82 Vehicles for Hire, Article II, Taxicabs, Section 82-48, Standards for Denial, receive first passage by a roll call vote and that the public hearing on said ordinance be continued to next regular City Council meeting.
Passed - Vote 6-0

**ADOPTION OF BOND RESOLUTION FOR THE WAHLCO METROFLEX
EXPANSION PROJECT**

The City Administrator explained that during the April 3 Council meeting, the Council adopted phase one of this issue and tonight's action is phase two. He noted the city is a pass through agent only for this item. Councilor Mendros inquired about the recent bond rating review when the city's rating decreased and asked what impact this action will have on the rating. It was noted that since the city is just a pass through agent, it would have no effect on the rating. Councilor Jean asked if this project qualifies for the Pine Tree Zone benefits. It was stated that Wahlco is located within the PTZ and they are exploring the benefits.

Mayor Gilbert opened the public hearing to receive citizen input and comment. Peter Garcia, bond counsel for Androscoggin Bank which is financing the project and John Bayder, Chief Financial Officer for Wahlco, were present to address questions. Mr. Bayder explained the company's expansion project. Dan Gregoire of 19 Mitchell Street stated that his backyard abuts the company property and he inquired about an increased noise level. Mr. Bayder stated that the work the company is currently doing outside will all be moved inside once the expansion is complete, stating the noise should be less. Mayor Gilbert then closed the hearing.

The Mayor commended the company for staying in Lewiston, expanding the company and for having fifteen UMaine graduates on staff, noting their support for Lewiston and Maine.

VOTE (210-2007)

Motion by Councilor Jean, seconded by Councilor O'Brien:

That the Findings of Fact and the Bond Resolution of the Municipal Officers of the City of Lewiston, Maine, authorizing the issuance of \$2,500,000 in revenue obligation securities for the 2007 Wahlco Metroflex, Inc. Project and authorizing and approving the bond documents, be adopted:

**FINDINGS OF FACT AND BOND RESOLUTION OF THE MUNICIPAL OFFICERS OF THE
CITY OF LEWISTON, MAINE, AUTHORIZING THE ISSUANCE OF \$2,500,000 IN
REVENUE OBLIGATION SECURITIES, (2007 WAHLCOMETROFLEX, INC. PROJECT)
AND AUTHORIZING AND APPROVING THE BOND DOCUMENTS**

WHEREAS, the Finance Authority of Maine Act, 10 Maine Revised Statutes Annotated, Ch. 110, §§ 961 et seq. (the "Act"), authorizes and empowers the City of Lewiston, Maine (the "Municipality") to acquire, construct, reconstruct, renew and replace or provide financing for eligible projects within the corporate limits of the Municipality, to acquire or enable a user to acquire and dispose of such projects and to make and enter into all financing documents and contracts necessary or convenient to carry out each such power; and

WHEREAS, the Act authorizes and empowers the Municipality to issue its revenue obligation securities to pay the cost of or provide financing for acquiring, construction, reconstructing, renewing and replacing eligible projects; and

WHEREAS, the Act authorizes the municipal officers of the Municipality to provide, by a resolution adopted by the vote of said municipal officers, for the issuance of the Municipality's revenue obligation securities upon receipt of the Certificate of Approval issued by the Finance Authority of Maine; and

WHEREAS, a Certificate of Approval has been or is soon expected to be issued by the Finance Authority of Maine; and

WHEREAS, the Act provides that the revenue obligation securities of the Municipality shall not constitute any debt or liability of the State of Maine or any municipality therein or any political subdivision thereof or a pledge of the faith and credit of the State of Maine or of any such municipality or political subdivision, but shall be payable solely from revenues of the project for which they are issued, and that the issuance of such securities shall not directly or indirectly or contingently obligate the State of Maine or any municipality or political subdivision thereof to levy or to pledge any form of taxation whatsoever therefore or to make any appropriation for their payment; and

WHEREAS, WahlcoMetroflex, Inc. (the "Borrower") desires to finance the building of an approximately 17,360 square foot addition and other improvements to the WahlcoMetroflex, Inc. manufacturing facility located at 29 Lexington Street, Lewiston, Maine, and the acquisition and installation of certain machinery, equipment and other personal property, all subject to depreciation, and all to be used at the 29 Lexington Street facility for the manufacture of a broad range of high performance isolation and flow control dampers, expansion joints and related duct systems and devices by WahlcoMetroflex, (the "Project"); and

WHEREAS, the Borrower wishes the Municipality to issue the Municipality's revenue obligation security or securities, to be designated "City of Lewiston, Maine Revenue Obligation Security, (2007 WahlcoMetroflex, Inc. Project)" in an aggregate principal amount not to exceed \$2,500,000 (the "Bonds") to finance the construction of the facility and the acquisition and installation of the machinery, equipment, furniture and fixtures of the Project; and

WHEREAS, the Borrower wishes to finance the Project by borrowing from the Municipality; and

WHEREAS, the City Council acting as the "applicable elected representative" of the City has held a public hearing at 7:00 p.m. on July 17, 2007 after reasonable public notice published on or before July 2, 2007 in the Lewiston Sun Journal which paper is of general circulation in the City, about the proposed issue of the Bonds for the Project as required by the Internal Revenue Code of 1986, as amended, 26 U.S.C. §147(f) (2), and regulations thereunder;

NOW, THEREFORE, AFTER PUBLIC HEARING BE IT RESOLVED BY THE MUNICIPAL OFFICERS OF THE CITY OF LEWISTON, MAINE AS FOLLOWS:

Section 1. The Municipal Officers hereby find and determine that:

(a) The Municipality is a duly organized municipality of the State of Maine and the Municipal Officers are the duly elected municipal officers of the Municipality; and

(b) The Act authorizes and empowers the Municipality to finance the construction of the facility and acquisition and installation of machinery, equipment, furniture and fixtures of the Project, and to issue the Bonds to finance the Project; and

(c) The Act authorizes the Municipality to enter into financing documents including security agreements, mortgages, contracts and trust agreements, including, without limitation, a certain Loan Agreement, and all other contracts and agreements which are necessary or convenient to the exercise of its powers under the Act (the “Bond Documents”); and

(d) A Certificate of Approval has been or is soon expected to be issued to and received by the Municipality as required by the Act, which Certificate authorizes the Municipality to proceed to issue the Bonds to finance the Project; and

(e) The proceeds of the Bonds in an aggregate principal amount not to exceed \$2,500,000 will be required and will be sufficient to pay the estimated cost of the Project.

Section 2. Pursuant to the Act, the issuance by the Municipality of the Bonds in the principal amount not to exceed \$2,500,000 is hereby authorized. The Bonds shall be designated “City of Lewiston, Maine Revenue Obligation Security, (2007 WahlcoMetroflex, Inc. Project).” The proceeds of the Bonds shall be used to finance the construction of the facility and the acquisition and installation of machinery, equipment, furniture and fixtures of the Project. The proceeds of the Bonds, if and when issued by the Municipality, shall be loaned to the Borrower to finance the Project. Nothing herein shall obligate the Municipality to issue the Bonds, which shall be issued in the sole discretion of the Municipality.

Section 3. The Municipal Officers of the Municipality hereby authorize and approve the execution, acknowledgment and delivery by the Finance Director of such applications, contracts, deeds, leases, assignments, certificates, memoranda, and other documents, including without limitation a Loan Agreement and a Tax Regulatory Agreement (together, the “Bond Documents”) in connection with the Project, in such form as he may approve by his execution thereof. The Municipal Clerk is hereby authorized and directed to attest to the Municipality’s execution of the Bond Documents as necessary and to affix the official seal of the Municipality thereto as necessary.

Section 4. The Bonds shall be in substantially the form submitted to the Municipality for approval and shall contain such other terms and provisions not inconsistent therewith as may be approved by the Finance Director by execution thereof. The Municipal Clerk is hereby authorized and directed to attest to the Municipality’s execution of the Bonds and to affix the official seal of the Municipality thereto.

Section 5. The Bonds shall be and shall contain on their face a statement to the effect that the Bonds are a limited obligation of the Municipality and shall not constitute any debt or liability of the State of Maine or any municipality therein or any political subdivision thereof or a pledge of the faith and credit of the State of Maine or of any such municipality or political subdivision, but shall be payable solely from revenues of the project for which it is issued; and the issuance of the Bonds shall not directly or indirectly or contingently obligate the State of Maine or any

municipality or political subdivision thereof to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment.

Section 6. If any of the officers or officials of the Municipality who have signed or sealed the Bonds shall cease to be such officers or officials before the Bonds so signed and sealed shall have been actually authenticated or delivered by the Municipality, the Bonds nevertheless may be authenticated, issued and delivered with the same force and effect as though the person or persons who signed or sealed the Bonds had not ceased to be such officer or official; and also the Bonds may be signed and sealed on behalf of the Municipality by those persons who, at the actual date of the execution of the Bonds, shall be the proper officers and officials of the Municipality, although at the nominal date of the Bonds any such person shall not have been such office or official.

Section 7. That the Borrower shall pay expenses incurred by the City with respect to the issuance of the Bonds as more particularly described in the Inducement Order earlier enacted. The Borrower shall further agree to release and indemnify the City as more particularly described in the Inducement Order.

Section 8. The Municipality reserves the right, but does not hereby obligate itself, to issue additional bonds for the purposes and upon the conditions set forth in the Bond Documents.

Section 9. The Finance Director is hereby authorized and empowered to do all such acts and things, and to negotiate, execute, deliver, file and record all such financing documents, contracts, deeds, assignments, certificates, memoranda, abstracts and other documents as may be necessary or advisable, with the advice of counsel for the Municipality, to carry out the provisions of the resolution heretofore adopted at this meeting in connection with the Project, the execution, sale and delivery by the Municipality of the Bonds and the execution and delivery of the Bond Documents.

Section 10. The Finance Director be and hereby is authorized to covenant, certify, and agree, on behalf of the City for the benefit of the holders of such Bonds, that the City, at the expense of the Borrower and if requested in writing by the Borrower, will file any required report and take any other action that may be necessary to insure that interest on the notes will remain exempt from federal income taxation, and that the City will refrain from any action that would cause interest on the notes to be subject to federal income taxation.

Section 11. The Municipal Clerk is hereby authorized and directed to cause a Notice of Intent to Issue Revenue Obligation Securities, City of Lewiston, Maine, to be published no later than fourteen (14) days after the date hereof in the Lewiston Sun Journal, a newspaper of general circulation in the Municipality, and in the Kennebec Journal, the state newspaper of the State of Maine. Such publications shall constitute the notice of intent to issue the Bonds required by the Act.

Section 12. If the Finance Director, the Clerk or any other official is for any reason unavailable to approve and execute the Revenue Bonds or Bond Documents, any other person or persons then acting in any such capacity, whether as an assistant, a deputy or otherwise are each individually

authorized to act for such official with the same force and effect as if such official had performed such act.

Section 13. The Municipality hereby confirms its election to have the \$10,000,000 limit on capital expenditures specified by Section 144(a)(4) of the Internal Revenue Code of 1986, as amended, applied to the Bonds.

Passed - Vote 6-0

**SPECIAL AMUSEMENT PERMIT FOR THE ACME SOCIAL CLUB,
255 PARK STREET**

Mayor Gilbert opened the public hearing to receive citizen input and comment. No members of the public spoke for or against this item. Mayor Gilbert then closed the hearing.

VOTE (211-2007)

Motion by Councilor Mendros, seconded by Councilor Paradis:

To grant a Special Amusement Permit for Dancing & Entertainment to the Acme Social Club, 255 Park Street. Passed - Vote 6-0

**PUBLIC HEARING FOR APPROVAL OF AN OUTDOOR ENTERTAINMENT
PERMIT FOR THE GREAT FALLS BALLOON FESTIVAL**

Mayor Gilbert opened the public hearing to receive citizen input and comment. No members of the public spoke for or against this item. Mayor Gilbert then closed the hearing.

VOTE (212-2007)

Motion by Councilor Samson, seconded by Councilor Jean:

To conduct a public hearing on an application for an outdoor entertainment event for the Great Falls Balloon Festival, and to grant a permit for an Outdoor Entertainment Event, as required by the City Code of Ordinances, Chapter 10, Article 1, Section 10-3, to the Great Falls Balloon Festival Committee for outdoor music concerts for the annual Festival to be held at Railroad Park on August 17-19, 2007, contingent upon positive recommendations from the Police Department, Fire Department, Code/Health Officer and Land Use Inspector regarding compliance with all regulations and compliance with all City ordinances. Passed - Vote 6-0

**PUBLIC HEARING FOR APPROVAL OF AN OUTDOOR ENTERTAINMENT
PERMIT FOR THE EMPOWER LEWISTON NEIGHBORHOOD BLOCK PARTY**

Mayor Gilbert opened the public hearing to receive citizen input and comment. No members of the public spoke for or against this item. Mayor Gilbert then closed the hearing.

VOTE (213-2007)

Motion by Councilor Samson, seconded by Councilor O'Brien:

To conduct a public hearing on an application for an outdoor entertainment event for the Empower Lewiston Neighborhood Block Party, and to grant a permit for an Outdoor Entertainment Event, as required by the City Code of Ordinances, Chapter 10, Article 1, Section 10-3, to Empower Lewiston for an outdoor music concert for the Block Party to be held at Potvin Park on July 25, 2007, contingent upon positive recommendations from the Police Department, Fire Department, Code/Health Officer and Land Use Inspector regarding compliance with all regulations and compliance with all City ordinances. Passed - Vote 6-0

**RECOMMENDATION FROM THE DOWNTOWN NEIGHBORHOOD TASK FORCE
REGARDING THE CREATION OF A POCKET PARK ON KNOX STREET**

Councilor Paradis asked about the status of the property acquisition. City Administrator Bennett stated that staff has not discussed this issue with Councilor Rousseau's family who owns the property, noting the staff needed the Council to authorize them to begin the acquisition process first, then they will proceed with dialog regarding the acquisition. It was noted if the motion passed this evening to authorize staff to proceed, then the item would be brought back at the August meeting for action.

Adilah Sabreen Muhammad, chair of the Downtown Neighborhood Task Force (DNTF), stated the proposed location for the park was suggested by residents in the downtown over a year ago as a suitable alternate location to the Maple St park. Councilor Samson noted this is a better, safer location than Maple Street, stating the traffic is less. Councilor Bernier asked why the DNTF did not wait until their review and master plan for the entire downtown was completed and include this recommendation with the overall recommendations, rather than piecemeal each suggestion. Ms. Muhammad stated it is not the intent of the task force to present any additional, separate recommendations other than the park location issue, noting it has been an on going, unresolved issue for over a year and it is their preference to begin work immediately to have a useable park before the start of winter.

Kristin Walters, coordinator of Lots of Gardens, stated the proposed pocket park location is next to the community gardens on Knox Street and noted this was important to use this space as a multi-use space. Charles Soule of 170 Bartlett Street said the Maple St park location was only a 30 foot by 30 foot lot and stated the proposed site is twice the size, noting it would be a good location. Tina Bailey of 108 Birch Street thanked the Council for their work and stated she was pleased this project is moving forward.

Councilor O'Brien asked if city staff has looked at the upkeep of the property to make sure the city can do what the committee is requesting. Mayor Gilbert commended the members of the DNTF for their work on this project.

VOTE (214-2007)

Motion by Councilor Samson, seconded by Councilor Mendros:

To receive the recommendation from the Downtown Neighborhood Task Force regarding the creation of a community park and garden at 61-69 Knox Street and to authorize city staff to begin the process for acquisition of 69 Knox Street. Passed - Vote 6-0

**DISCUSSION REGARDING THE POSSIBLE AMENDMENTS TO THE CITY'S
ELECTION CODE TO CHANGE THE INITIATIVE AND REFERENDUM
PETITION PROCEDURES**

Councilors reviewed the current ordinance, the proposed changes as well as the state statutes and state constitution regarding this topic. A discussion regarding the differences between initiatives, referendums and people's vetoes occurred. Councilors asked for clarification and additional information on several items, noting the material is complex and suggested the need for a workshop to fully review the material. Larry Poulin of 394 Sabattus Street noted the petition process provides a good checks and balances in the system of government, and noted that while initiatives should not be able to shut down government, they should be able to address financial and personnel decisions. Charles Soule of 170 Bartlett Street reminded the Council of the petition drive for the Bates Mill exit strategy and suggested a charter revision might be in order.

VOTE (215-2007)

Motion by Councilor Mendros, seconded by Councilor Jean:

To set a workshop on this matter for July 31 and to allow limited public discussion during the workshop, at the Mayor's discretion.

Passed - Vote 5-0 (Councilor Bernier was absent from the Chambers during the vote.)

UPDATE REGARDING VARIOUS LEGISLATIVE INITIATIVES

Senator Rotundo congratulated the city on the recent designation as an All America City and thanked the Council and staff for their hard work leading up to this award. She then reviewed the various bills that she submitted to the Legislature on behalf of the City this past session, all pertaining to property tax relief suggestions. Senator Rotundo reviewed the public hearing discussions and final outcomes of LD 693, LD 879, LD 1242 and LD 1243. She noted a concept of some of these bills will be returning to the Legislature in the next session. Councilor Bernier reviewed the issues that service center communities face and also discussed revenue sharing numbers, LD 1 and homestead exemptions.

UPDATE REGARDING THE CANAL STREET GUARDRAIL STUDY

Deputy Director of Public Services Kevin Gagne reviewed a memorandum from David Jones, Public Services Director, regarding a pending report pertaining to the Canal Street guardrail study. The automobile fatality in January was reviewed by MDOT. It was noted the guardrail

was removed in 1992 and that MDOT and HMBT, a consulting firm hired to advise on the study, will probably be recommending that it be reinstalled.

REPORTS AND UPDATES

No other reports and updates were presented at this time.

OTHER BUSINESS

It was noted that names need to be submitted for nomination to serve on the Androscoggin County Budget Committee. The names will be suggested at the August 14 Council meeting and presented at the August 15 county caucus.

VOTE (216-2007)

Motion by Councilor Mendros, second by Councilor Jean:

To adjourn at 10:18 P.M. Passed - Vote 7-0

A true record, Attest:

Kathleen M. Montejo, CMC
City Clerk
Lewiston, Maine